IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2216 OF 2004

ALONG WITH

CRIMINAL WRIT PETITION NO.2217 OF 2004

Shri Mohanlal Pannalal Lunkad & Anr....Petitioners

Versus

M/s.Lotus Enterprises & Ors. ...Respondents

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Mr.A.Y.Sakhare, Sr.Counsel with Mr.Sarang A.Aradhye for Petitioners.

Mr.R.D.Soni i/b Ram & Co. for Respondents 1 & 2.

Mr.S.R.Shinde, A.P.P. for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 14, 2004.

P.C.

1. Heard Counsel for the parties.

2. I find no reason to interfere in exercise of inherent jurisdiction for quashing the criminal action instituted against the Petitioners. The

argument proceeds on the basis that the complaint has been filed against Nav Maharashtra Chakan Oil Mills, a partnership firm, whereas, the cheque in question has been issued by Nav Maharashtra Chakan Oil Mills, Ahmednagar, another partnership firm, which is also duly registered.

3. After considering the submissions and perusing the record, it is seen that the Petitioners are common partners in both these firms. The Petitioners are relying on document to suggest that they have resigned with effect from 1st April 1998 from the Nav Maharashtra Chakan Oil Mills, Ahmednagar. On the other hand, the Respondent/Complainant has also relied on the certified copy of the document issued by the Registrar of firms to suggest that intimation about resignation has been given only in the year 2001, much after the cheques in question were issued and presented.

4. The Court below has rightly observed that the partners of the firm can be independently prosecuted as the Petitioners, according to the

Complainant, were partners of the firm which issued the cheque in question namely, Nav Maharashtra Chakan Oil Mills, Ahmednagar. Indeed, the criminal action against the Petitioners can proceed on that basis.

5. All contentions available to the Petitioners will have to be considered only after the evidence of the parties has been let in. Not a case for interference. Rejected.

A.M.KHANWILKAR, J.